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RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex Parte RICHARD CRAIG BEESLEY,
RICHARD ANDREW BONNIFACE, RICHARD HARVEY DAY,
STUART WILLIAM JOHN DALEY and BABY VASUDEVAN

Appeal 2010-000823
Application 10/767,454
Technology Center 2400

Oral Hearing Held: October 13, 2010

Before JOSEPH L. DIXON, JEAN R. HOMERE, and STEPHEN C. SIU,
Administrative Patent Judges.

APPEARANCES:

ON BEHALF OF THE APPELLANT:

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1 The above-entitled matter came on for hearing on Wednesday,
2 October 13, 2010, commencing at 9:33 a.m., at the U.S. Patent and
3 Trademark Office, 600 Dulany Street, Alexandria, Virginia, before Jack
4 Becker, a Notary Public.

5 THE USHER: Good afternoon, Calendar No. 19, Appeal No. 2010-
6 000823. Mr. Palan.

7 JUDGE DIXON: Good morning, Mr. Palan.

8 MR. PALAN: Good morning. How are you doing?

9 JUDGE DIXON: All right. You have 20 minutes. You may begin
10 when you're ready.

11 MR. PALAN: I appreciate it. What we'd like to do is start off with a
12 brief overview of the invention just to place it all in some context. Then
13 we'll talk about the claims a bit, talk about the reference and why it doesn't
14 anticipate the independent claim 1, in particular.

15 The present invention is directed to problems that are encountered
16 when browsing the web from public terminals. So typically, web browsers
17 store all kinds of information, the history of websites you visit, cookies. The
18 computer itself is arranged to cache information in what's called a swap file.
19 The web browser -- if too many programs are running and the web browser
20 is not actively being used, that would be cached to the hard drive out of the
21 RAM. So typically, when browsing the Internet from a public or private
22 terminal, a lot of information is stored on the computer.

23 In public terminals, this is a problem because someone can later on
24 come -- the next user to the public terminal can then go ahead and figure out
25 which websites were visited and try to recover some of the user names and
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1 passwords that were stored on the computer during the previous user's
2 browser session. Although browsers can be configured not to cache
3 information, some browsers can't be configured that way. Particularly for
4 public terminals, the operating systems are typically locked down to prevent
5 many modification of options of web browsers or other application
6 programs.

7 So with that in mind, what the method of claim 1 is directed to is
8 essentially using a browser within a browser. So what happens is you log on
9 to the terminal, you transmit a request for a web browsing software from a
10 remote server. That gets downloaded or received at the terminal. That
11 received web browser is then used to communicate over a public network.

12 JUDGE HOMERE: Counselor, what is a browser?

13 MR. PALAN: I'm sorry.

14 JUDGE HOMERE: What is a browser?

15 MR. PALAN: What is a browser? Well, I'm not sure I can give you
16 an explicit definition, but a browser is not a generic communication
17 program. In particular, that's clear from the prosecution history in that we
18 cancelled the language in claim 1 and other claims that talked about, you
19 know, a request for a communication application and made it more specific
20 to a web-to-web browsing software. I think that --

21 JUDGE HOMERE: Can the word "browser" be a browser that
22 enables you to browse the web?

23 MR. PALAN: Yes.

24 JUDGE HOMERE: If I go on CNN.com, am I on a web browser?

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1 MR. PALAN: Yes. And I think that I was -- I thought about this last
2 night, this question, what's a web browser. And a web browser's not just
3 anything that retrieves information over a network or over the Internet.
4 Although we should be talking about at the time of the invention what this
5 term meant in 2004, just to use a simple comparison from current times,
6 applications on an Apple iPhone typically will be retrieving information
7 over the Internet. I don't think those would be considered a web browser,
8 whereas there is a separate web browser piece of software on an iPhone that
9 would be considered a web browser. Just like -- information's been obtained
10 over data networks for a very long time using a variety of means. There's --
11 prior to the time of the invention, there were programs for FTP, for file
12 downloading --

13 JUDGE HOMERE: My question is, if I go on CNN.com and I start
14 browsing or moving around all the different topics they have on there, am I
15 on a web browser browsing? Would that meet the definition of what a web
16 browser is?

17 MR. PALAN: Yes, you're using a web browser to browse.

18 JUDGE HOMERE: So, say, when I'm on CNN, that particular page,
19 that would qualify as a web browser?

20 MR. PALAN: The page itself, no, but the --

21 JUDGE HOMERE: So what's the distinction?

22 MR. PALAN: What?

23 JUDGE HOMERE: What is the difference?

24 MR. PALAN: The difference is that the page is nothing but just code.
25 The code has to be rendered by something. In this case, its HTML code

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1 that's downloaded to a web browser program. So for example, on a
2 computer you can have Internet Explorer as a web browser. Firefox is a web
3 browser. Opera is a web browser. CNN.com itself is not a web browser.
4 That's just --

5 JUDGE HOMERE: A web page.

6 MR. PALAN: Yeah, that's just a web page.

7 JUDGE HOMERE: Okay. So when you say a web browser, you
8 mean things like Internet Explorer, Firefox, and so on, so forth?

9 MR. PALAN: I think it's important to make a distinction because I
10 think that the claims make a distinction between a web browser, *per se*, and
11 web browsing software. What we disclose and what some of the dependent
12 claims get to is what I mentioned at the beginning of a browser within a
13 browser. So, really, what we talk about in the disclosure and what some of
14 the dependent claims talk about is you have your, for example, Internet
15 Explorer browser window open.

16 JUDGE HOMERE: Okay.

17 MR. PALAN: You will then download another program which will
18 be a Java application that is executed on the Internet Explorer browser
19 program. That Java software is web browsing software. So, what happens
20 is that instead of having your browser software itself, your Internet Explorer,
21 render the web pages, this Java application within the browser is going to be
22 rendering the web pages. That's really one of the keys to the invention.

23 JUDGE HOMERE: Are you familiar with virtual machines?

24 MR. PALAN: Yes.

25 JUDGE HOMERE: Okay. How does the --

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1 MR. PALAN: A virtual machine?

2 JUDGE HOMERE: Uh-huh.

3 MR. PALAN: A virtual machine -- my understanding of a virtual
4 machine would be, essentially, a virtual computer environment executing
5 within another computer environment. So, for example --

6 JUDGE HOMERE: Okay. So, therefore, can you have -- does it
7 allow you to have a terminal -- as a browser in there? And then you can
8 download by accessing the other computer, you said, or the other terminal?
9 Do you download a browser there?

10 MR. PALAN: I'm not sure that you can run a virtual machine within
11 a browser. Maybe because -- the claim here requires that the browser that
12 you use to communicate is downloaded.

13 JUDGE HOMERE: Okay.

14 MR. PALAN: So, it would require --

15 JUDGE HOMERE: One example, for instance -- right now where
16 I'm sitting, looking at this computer, I am accessing my desktop from where
17 I am.

18 MR. PALAN: Right.

19 JUDGE HOMERE: And, essentially, what I did is from -- I have a
20 browser right here before me, I double click on a certain icon and then I put
21 in my password and then I get access to my machine where I can download,
22 if you will, the interface that I have on my machine.

23 MR. PALAN: Right. I think that is talked about in the reference,
24 Araujo, that's -- I'm not sure he used the Citrix software to do that, but a lot
25 of people use Citrix software. That actually gets closer to what Araujo is

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1 about and farther from what we're about, because what you're doing there is
2 you're not actually downloading any software to your machine. You may be
3 downloading the Citrix ICA client to be able to view your desktop. Citrix
4 also provides a Java client. There, you're not -- you're downloading a Java
5 client or this Citrix ICA client to your computer. That is then rendering a
6 version of your desktop that's executing on a server somewhere else.
7 You're not -- neither of those, I don't think, would be considered a web
8 browser because your desktop's not a web.

9 JUDGE HOMERE: What if I launch Internet Explorer once I get on
10 my machine?

11 MR. PALAN: If you logged through Citrix to the remote server,
12 Internet Explorer would be executing on the remote server. It would not be
13 downloaded to your computer. What you would be seeing is screen shots of
14 what is being executed on the remote screen.

15 JUDGE HOMERE: But the fact that I can see it remotely on my
16 terminal, isn't that downloading?

17 MR. PALAN: No. No.

18 JUDGE HOMERE: Why not?

19 MR. PALAN: Because the software itself is not downloading. The
20 software never exists on your terminal. The web browser -- you can launch
21 Internet Explorer. It's executing over on a different machine. When it
22 browses on that server, it will send out requests to the web which receive,
23 for example, HTML code back. It will render that code as if it was going to
24 display it to display, but then when it needs to get to your computer here, it
25 then has to convert it into whatever protocol that Citrix uses to display a
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1 screen shot. That's why if you -- in the older versions of Citrix, if you
2 moved the screen really quickly on your web browser that's executing on the
3 server, you'd see kind of a, you know, a delay effect because it's not on your
4 computer, it's running on the server. What you're just seeing is a
5 reproduction of the environment.

6 JUDGE HOMERE: What is required to download something? What
7 is downloading?

8 MR. PALAN: What is downloading?

9 JUDGE HOMERE: Yes.

10 MR. PALAN: I would say that downloading is -- well, it's not only --
11 downloading is the process of receiving information, in this case software,
12 from a remote server. I mean -- maybe if we get a bit into the reference it
13 might become a bit more clearer.

14 JUDGE HOMERE: Okay. Yeah, because isn't like the reference --

15 MR. PALAN: Right. No, I don't disagree, and I think the case here
16 is that I'm not sure the Examiner recognized everything that was in the
17 reference, so I don't think that it was properly addressed.

18 JUDGE HOMERE: Okay.

19 MR. PALAN: We didn't see what I believe that you're talking about
20 from the Examiner's rejection, but I think we can address it now. What --

21 JUDGE HOMERE: Well, let's do that then. Okay.

22 MR. PALAN: What Araujo says is -- it's an alternative to a Citrix
23 environment. So what that talks about is there is -- it's a remote access to
24 either e-mail applications, thin-client applications or files. For the e-mail
25 and the files, what Araujo talks about basically is there is no -- they use this
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1 SEP, a service enablement platform, that converts protocols and bridges
2 between the remote device, the remote terminal and the posted applications,
3 the SEP. Now, for files, file browsing, and for e-mail, it is my
4 understanding that this is completely rendered in HTML code on a browser
5 that is pre-existing on the terminal. The browser that is pre-existing on the
6 terminal sends a request to -- you see, for example on the screen shot of --
7 let's take a look at, for example, Figure 16 has the file browsing screen shot.
8 So, here you're clicking through a file system. That is all rendered in
9 HTML code. So, what happens is the SEP, service enablement platform, sits
10 between the server that has these files and your terminal. And so the
11 language, the protocol that the file server uses is then converted into HTML
12 code to then be rendered at the browser that's pre-existing at the terminal.

13 Now, I think what you're talking about is the other way that Araujo
14 accesses what they call thin-client applications, and this is using AIP
15 protocol which, it sounds from the reference, is some type of proprietary
16 protocol that's not described in great detail. But what that is is that is very
17 similar to what we were talking about before with the, for example, the
18 Citrix ICA client. It does talk about going to this website. I'm not sure that
19 they illustrate the downloading of the Java application, but it does talk about
20 that, what you can do if you need to access these thin-clients. Because it
21 doesn't use HTML, you will then use this Java client, and so you can click
22 on a button, download that Java client, and then remotely access
23 applications. So, something is downloaded to your computer.

24 JUDGE HOMERE: That's right.

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1 MR. PALAN: But it's not -- that Java client is not used for web
2 browsing. It is not web browsing software. It is software for accessing
3 remote applications.

4 JUDGE HOMERE: Okay.

5 MR. PALAN: I think another -- I'm not sure if we're still concerned
6 about some of the comments made by the Examiner, but there are
7 applications residing on a remote server similar to a Citrix scenario. Those
8 applications, again, they're executing in a remote server environment. So,
9 even though, for example, it only talks -- it illustrates programs such as
10 Great Plans, Excel, PowerPoint, Word, Notepad, Solitaire, Visio, and
11 Windows -- even if it did disclose a browser sitting on that server, which it
12 doesn't -- and we're talking about anticipation here which is silent and it's
13 not required, so it's clearly not a case of anticipation. But let's assume that
14 we walk away and we say, okay, well, it's got all these other applications,
15 it's obvious to add a browser to one of these thin-client applications. Let's
16 assume for the sake of argument that that's true. That still would not -- that
17 browser itself would not be downloaded. You would be downloading this
18 Java client to then access that browser that's executing remotely.

19 JUDGE HOMERE: So, your position is that even though I can access
20 the browser on my terminal, I can see that browser remotely, but that's not
21 downloaded? It's not actually downloaded on my terminal or on the existing
22 browser?

23 MR. PALAN: Yeah, and I think the distinction may be in the exact
24 claim language that you're sending the request for web browsing software
25 and you're receiving the web browsing software. So, you're receiving
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1 software, you're not receiving a replication, a reproduction of what the
2 software looks like or a reproduction of the execution of the software. The
3 software itself is requested. The software itself is downloaded. That
4 software itself is then used to browse. You know, another distinction, just to
5 get to the finer -- another point raised by the Examiner, the Examiner takes
6 the position that Araujo is silent as to whether information is stored or not,
7 and then says well, because it doesn't say it must not be stored, then it could
8 be. Well, we're in the world of anticipation. There is no clear disclosure.
9 There is no -- it's not necessarily so. Maybe that's an argument for
10 obviousness. It's not here, because we're talking about anticipation. The
11 other thing is the reference actually does talk about the Java client caching
12 information and being able to reuse components. If something comes up
13 that it has in its cache, it can re-use it.

14 JUDGE HOMERE: But, counselor, we're talking about a virtual
15 machine here, and you know very well in a virtual machine when you're
16 accessing remote applications, nothing gets cached. None of the activities
17 that you are actually doing gets cached on your local machine. I mean,
18 that's --

19 MR. PALAN: Actually, Araujo discusses actually just that exact
20 scenario in paragraph 145. Because one of the things we do talk about in
21 our application is Java clients themselves are set up to cache information, so
22 all the way at the end of paragraph 145, if you look in the second column on
23 page 17, about 10 lines down, it says "In addition, the user interaction
24 component, through use of protocol engine 1160, will also determine if Java
25 applet 1180 has cached any portion of the display that can be reused in the
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1 updated display.” So a component -- if you’ve previously displayed a
2 component and then it gets -- it’s told to display something and it can reuse
3 it from its cache, it will then pull it back up, and that’s actually one of the
4 things we talk about in our Figure 2. It shows that we’re cutting off the Java
5 client’s access to cache information. So at least in the environment of
6 Araujo, it does cache information, and we specifically disclose that we
7 modify a setting in the virtual machine to turn off that caching capability.

8 JUDGE HOMERE: How do you reconcile that language with Araujo
9 on page 11? You said the web browser 3 also stored the secure web browser
10 on the hard disc.

11 MR. PALAN: Yes. The browser itself is stored, but the information
12 that is executed, that’s going back and forth through the browser, if you look
13 at -- I’m sorry, I mentioned Figure 2 before. If you look at Figure 3, you
14 know, it has the big X between the virtual machine and the Java cache. So,
15 and we talk about -- I apologize, I actually did not bring a copy of the
16 application as filed. I was working off of the published application, but it
17 does talk about turning off that setting, turning off the ability to cache. In
18 paragraph 50 of the published application, it does say “to disable Java
19 Virtual Machine image caching, the secure web browser 6 changes the JVM
20 settings through a ‘hidden’ class available in Java Virtual Machine 7.” So at
21 least the way that we describe a Java Virtual Machine and how it operates,
22 which seems consistent with the way Araujo talks about how it would
23 operate, is that it does normally cache information.

24 I see my time’s up. Was there any other questions?

25 JUDGE DIXON: No.

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1 MR. PALAN: Well, thank you.

2 JUDGE HOMERE: You're welcome.

3 JUDGE SIU: Thank you.

4 Whereupon, the proceedings, at 9:55 a.m., were concluded.

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